

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PATRICIA ELAINE BLACKMON,

Plaintiff,

Case. No. 18-13032

v.

Honorable Thomas L. Ludington
Magistrate Judge Stephanie D. Davis

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**ORDER ADOPTING REPORT & RECOMMENDATION AND DISMISSING
COMPLAINT WITHOUT PREJUDICE**

On September 27, 2018, Plaintiff, Patricia Elaine Blackmon, proceeding pro se, filed this action under 42 U.S.C. § 405(g) for a review of a final decision of the Commissioner of Social Security denying her application for social security disability benefits. ECF No. 1. On the same day, she also filed an application to proceed in district court without prepaying fees or costs. ECF No. 2. The matter was referred to Magistrate Judge Anthony Patti. ECF No. 3. Judge Patti reviewed Plaintiff's application to proceed in forma pauperis and concluded that he could not rule on it at that time because the form application (AO 240) was noticeably unresponsive as to question 2 regarding employment and gross pay or wages. *Id.*

Judge Patti therefore held Plaintiff's application in abeyance and ordered her to file a supplemental application by October 15, 2018. ECF No. 5. Plaintiff failed to file a supplemental application. Accordingly, on October 23, 2018, Judge Patti entered an Order denying without prejudice Plaintiff's September 27, 2018 application to proceed in district court without prepaying fees or costs. ECF No. 7. Judge Patti advised Plaintiff of her responsibility for service of a summons and a copy of the complaint on all defendants in accordance with Rule 4 of the

Federal Rules of Civil Procedure and that a blank copy of the summons is available for download on the Court's website. *Id.*

Judge Patti also reminded Plaintiff about the availability of the federal pro se legal assistance clinic operated by the University of Detroit-Mercy Law School. *Id.* However, Plaintiff failed to perfect service over Defendant. Accordingly, on January 4, 2019, Judge Patti issued an order to show cause for failure to effect service over Defendant. ECF No. 8. To date, Plaintiff has not responded to the Show Cause Order. Accordingly, on February 21, 2019, Judge Patti issued a report recommending that the complaint be dismissed without prejudice for failure to serve the Defendant and failure to show cause. ECF No. 9.

Although Judge Patti's report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases Judge Patti from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the report and recommendation, ECF No. 9, is **ADOPTED**.

It is further **ORDERED** that the Complaint, ECF No. 1, is **DISMISSED** without prejudice.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: March 15, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon **Patricia Elaine Blackmon**,
738 W. Pasadena Ave.,
Flint, MI 48504 by first class U.S. mail on March 15, 2019.

s/Kelly Winslow
KELLY WINSLOW, Case Manager